

MAINTAINING MEDICAID BENEFITS FOR JAIL DETAINEES WITH CO-OCCURRING MENTAL HEALTH AND SUBSTANCE USE DISORDERS

Summer 1999/Revised Spring 2002

In most communities, individuals detained in jails find themselves without access to Medicaid benefits upon release. Medicaid is a government program that provides medical assistance, including mental health and substance abuse treatment services, for eligible individuals and families with low incomes and resources. Medicaid benefits are not payable directly to clients, but instead are paid to providers of care. Termination of Medicaid benefits occurs due to state policies governing inmates of public institutions.

To regain medical assistance benefits after release from jail, the individual may have to go through a re-application process, which may delay access to benefits two or three months. During the critical days following release, the person may be

...federal law does not require that Medicaid benefits be terminated immediately upon incarceration or that termination occur at all.

unable to meet his/her basic living needs and may be denied access to all but emergency health care. Loss of Medicaid benefits can interrupt, delay, limit, or even prevent access to community treatment services and psychotropic medication for weeks or months and potentially undo any stabilization the individual gained while in jail, placing the individual at risk of re-hospitalization and/or return to the criminal justice system.

In some systems, the loss of medical assistance benefits does not prevent the person from accessing public treatment services, but instead shifts the full cost of mental health, substance abuse, and medical treatment to local city, county, or state agencies that bear these costs without the federal assistance to which they are entitled.

Lane County, Oregon (Eugene) is an example of a community that experienced this problem with regard to individuals targeted for diversion through its jail diversion program. Program staff were able to successfully address the issue of medical assistance benefits at the state and local levels to foster improved continuity of care. Lane County was one of nine sites funded by Substance Abuse and Mental Health Services Administration in the Jail Diversion Knowledge Dissemination Application Initiative (Steadman, Deanne, Morrissey, Westcott, Salasin, & Shapiro, 1999).

The Federal Guidelines on Medicaid

Medicaid is a federal-state partnership. States administer their own programs within broad guidelines provided by the federal government. Federal law prohibits State Medicaid agencies from using Federal Medicaid matching funds, known as Federal Financial Participation, to pay for medical, mental health and substance abuse treatment services to eligible individuals “who are inmates of a public institution.” As defined in the law, “public institutions” include jails, prisons and juvenile detention or correctional facilities. Though the prohibition of the Federal Financial Participation begins the moment the person becomes an inmate of a public institution, federal law does not require that Medicaid benefits be terminated immediately upon incarceration or that termination occur at all.

Federal policy does not specify how states are to implement this prohibition on Federal Financial Participation, nor does it prohibit states from using their own funds to serve eligible persons who are inmates of a public institution. Federal Policy does permit states to suspend temporarily payment status for incarcerated persons, however, many states’ management information systems do not allow for the suspension of cases, leaving termination the only option. Despite the prohibition

“States must ensure that the incarcerated individual is returned to the rolls immediately upon release, thus allowing individuals to go directly to a Medicaid provider and demonstrate ... Medicaid eligibility.” — Tommy Thompson, Secretary of Health and Human Services

on Federal Financial Participation or suspension of payment status, an individual may still retain eligibility status while in jail. Moreover, as Secretary of Health and Human Services, Tommy Thompson, wrote to Hon. Charles Rangel in Oct. 1, 2001 correspondence, “States must ensure that the incarcerated individual is returned to the rolls immediately upon release, thus allowing individuals to go directly to a Medicaid provider and demonstrate his/her Medicaid eligibility.” This statement reiterates the position of former secretary of Health and Human Services, Donna Shalala, in her April 6, 2000 letter to Rangel.

Lane County's Experience

In developing its jail diversion program, Lane County encountered barriers in maintaining uninterrupted access to treatment for the target population because of difficulties maintaining Medicaid benefits after booking into the local jail. In Oregon, as in most states, once the state Medical Assistance agency was notified of the individual's admission to jail, medical assistance benefits were automatically terminated. Upon release from jail, the individual had to reapply for Medicaid benefits, and await eligibility re-determination and renewed access to treatment services.

Lane County staff raised these issues with the Director of the Oregon Mental Health Division, who in turn brought them to the attention of the state agency responsible for administering Medicaid benefits. The state recognized this as a significant barrier to continuity of care for the individuals with short-term stays in jails, the majority of people incarcerated. The state Medicaid agency first adopted an Interim Incarceration Disenrollment Policy (5/20/98) and subsequently made the change permanent. This policy

...in addition to the 14-day delay in termination of Medicaid benefits, the application process can begin while the detainees are still in custody for those individuals who did not have benefits upon arrest...

specifies that individuals will be approved for disenrollment from the Oregon Health Plan managed care plans effective the 15th calendar day of incarceration. In effect, individuals released within the 14-day window before disenrollment will have access to their Medicaid benefits as if the incarceration had not occurred. The disenrollment after 14 days is based on holding a third party, i.e., the local jurisdiction responsible for incarceration, responsible for paying for medical costs during incarceration.

Lane County has developed an ongoing working relationship with the local application processing agency for Medicaid—the Senior and Disabled Services office. Now, in addition to the 14-day delay in termination of Medicaid benefits, the application/re-application process can begin while detainees are still in custody for those individuals who did not have benefits upon arrest or whose Medicaid had been terminated because of incarceration longer than fourteen days. Jail diversion staff help inmates fill out Medicaid applications, which are faxed to the Senior and Disabled Services office prior to the inmates' release. This office "fast tracks" diversion program participants, both those previously determined eligible for benefits and those who have never

before applied, processing their applications in a day or two. The Senior and Disabled Services office faxes temporary Medicaid cards to the jail, ensuring that the individual has immediate access to all health plan benefits upon release from jail. Permanent cards follow by mail.¹

The Lane County diversion staff report this change in state policy has greatly benefited jail detainees with co-occurring disorders by addressing a critical barrier to uninterrupted treatment in the community after release from jail.

Lane County's experience suggests a careful examination of medical assistance benefit processing in any community designing, implementing, or operating a criminal justice linkage program for persons with co-occurring mental health and substance use disorders. Specifically, it is worthwhile to investigate the following:

- the state Medicaid agency's interpretation and application of federal law;
- the state's information management systems that identify when Medicaid-eligible people enter or leave jail;
- the state Medicaid agency's suspension of benefits and disenrollment policies;
- the state Medicaid agency's policy regarding resumption of benefits.

Linkage program staff should develop lines of communication with the local benefits application agency and state Medicaid agency to ensure medical benefits or eligibility thereof are not lost or interrupted unnecessarily. ■

For more information about the Lane County Diversion Program, contact Richard K. Sherman, M.S., at (541) 682-2121 or richard.sherman@co.lane.or.us.

This factsheet was written by Patricia A. Griffin, Ph.D., Michelle Naples, M.A., Richard K. Sherman, M.S., Mark Binkley, J.D., and Kristin Stainbrook, M.S.

¹ Lipton, Liz (2001) *Psychiatric News*. Vol. 36(16).

The suggested citation for this fact sheet is National GAINS Center for People with Co-Occurring Disorders in the Justice System. (2001) Maintaining Medicaid Benefits for Jail Detainees with Co-Occurring Mental Health and Substance Use Disorders. Fact Sheet Series: Delmar, NY: The National GAINS Center.

The National GAINS Center for People with Co-Occurring Disorders in the Justice System is a national center for the collection and dissemination of information about effective mental health and substance abuse services for people with co-occurring disorders who come in contact with the justice system. The GAINS Center is a partnership of the Substance Abuse and Mental Health Services Administration's two centers—the Center for Substance Abuse Treatment (CSAT) and the Center for Mental Health Services (CMHS)—and the National Institute of Corrections, the Office of Justice Programs and the Office of Juvenile Justice and Delinquency Prevention. The GAINS Center is operated by Policy Research Associates, Inc. of Delmar, New York in collaboration with the Florida Mental Health Institute (FMHI), the University of Maryland's Center for Behavioral Health, Justice and Public Policy and R.O.W. Sciences, Inc.